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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,556	10/31/2001	Thomas J. Westbrook	WWWN116621	7679
26389	7590	04/07/2006	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			LEVINE, ADAM L	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			3625	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/001,556

Applicant(s)

WESTBROOK ET AL.

Examiner

Adam Levine

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 and 32-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 32-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 2, 2006, has been entered.

No amendments have been filed and all claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Response to Amendment***

Applicant has filed no amendments in the reply dated February 2, 2006. Claims 1-29 and 32-57 are pending.

Applicants' remarks consist entirely of two assertions. The first is that that the Office Action has not established that the claims of the present invention are taught by the provisional application filed September 1, 2000, upon which the prior art reference depends for priority. The second is that their conception and/or reduction to practice occurred prior to September 1, 2000, and that they proceeded with diligence in filing their provisional application on October 31, 2000. No evidence is offered in support of these assertions.

### ***Response to Arguments***

Applicant's arguments filed February 2, 2006, have been fully considered but they are not persuasive.

#### **Pertaining to rejection under 102(e) in the prior office action**

Applicants argue that that the Office Action has not established that the prior art reference's provisional application filed September 1, 2000, teaches the claims of the present invention. The examiner has hereby established that the claims of the present

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invention are taught by the provisional application serial number 60/229,900 dated September 1, 2000. For example, obtaining a buyer transaction request is disclosed at least at page 8 line 16- page 9 line 3. Identifying and obtaining a selection of sellers corresponding to buyer criteria and transmitting them is disclosed at least at page 17 lines 1-14. Obtaining a confirmation of the completion of a transaction is disclosed at least at page 26 lines 6-13. Generating transaction records is disclosed at least at page 28 lines 4-9, and processing the negotiation of a transaction is disclosed at least at page 32 lines 17-20.

With regard to the applicants' unsupported assertion that their conception and/or reduction to practice occurred prior to September 1, 2000, and that they proceeded with diligence in filing their provisional application on October 31, 2000, no evidence has been submitted. This is insufficient to establish a conception of the invention prior to the effective date of the prior art reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). Evidence must also be submitted establishing diligence from a date prior to the date of reduction to practice of the prior art reference to either a constructive reduction to practice or an actual reduction to practice. Finally, evidence must be submitted to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the prior art reference.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-29 and 32-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Adam (Paper# 050707; Patent Publication No. 2002/0069156).**

Referring to claim 1. Adam discloses a method for facilitating transactions between one or more buyers and sellers, the method comprising:

- Obtaining a buyer transaction request, the transaction request including one or more buyer criteria (paragraph 0078);
- Identifying a set of sellers corresponding to the at least one buyer criteria;
- Transmitting the set of sellers corresponding to the buyer criteria (paragraph 0078 through paragraph 0082);
- Obtaining a selection of at least one seller corresponding to the buyer criteria (paragraph 0078 through paragraph 0082);
- Processing the negotiation of a transaction between the buyer and the selected seller corresponding to the buyer criteria (paragraph 0078 through paragraph 0082);

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- Obtaining a confirmation of the completion of a transaction between the buyer and the selected seller (paragraph 0008 and paragraph 0068); and
- Generating transaction records associated with the completed transaction (paragraph 0073).

Referring to claim 2. Adam further discloses a method wherein obtaining the buyer transaction request includes obtaining a buyer transaction inquiry from a buyer computing device, wherein the buyer transaction inquiry includes a request to identify sellers operable to sell a buyer specified product and quantity (abstract).

Referring to claim 3. Adam further discloses a method wherein identifying a set of sellers corresponding to the buyer criteria includes:

- Obtaining product and quantity correlation data (Figure 4, Figure 5 and Figure 6); and
- Translating the buyer specified product and quantity data into a format compatible with each identified seller corresponding to the buyer criteria (Figure 4, Figure 5 and Figure 6).

Referring to claim 4. Adam further discloses a method wherein identifying a set of seller corresponding to the buyer criteria includes applying selection criteria (paragraph 0078 through paragraph 0082).

Referring to claim 5. Adam further discloses a method wherein the selection criterion includes information selecting one or more general seller categories to include/exclude (paragraph 0078).

Referring to claim 6. Adam further discloses a method wherein the selection criterion includes information identifying specific sellers to include/exclude (paragraph 0078).

Referring to claim 7. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from the buyer computing device (paragraph 0078).

Referring to claim 8. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from a seller computing device (paragraph 0078).

Referring to claim 9. Adam further discloses a method wherein the selection criterion includes information identifying one or more general seller categories to include/exclude and one or more specific sellers corresponding to the general seller categories to include/exclude (paragraph 0071).

Referring to claim 10. Adam further discloses a method wherein obtaining the buyer transaction request includes obtaining a buyer transaction query from a buyer computing device, wherein the buyer transaction query includes an invitation for offers from a number of sellers (abstract).

Referring to claim 11. Adam further discloses a method wherein identifying a set of sellers corresponding to the buyer criteria includes;

- Identifying a set of sellers corresponding to the buyer criteria (Figure 4, Figure 5 and Figure 6);



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- Transmitting the transaction query to the set of sellers (Figure 4, Figure 5 and Figure 6); and
- Obtaining one or more seller offers corresponding to the transaction query (Figure 4, Figure 5 and Figure 6).

Referring to claim 12. Adam further discloses a method wherein identifying a set of seller corresponding to the buyer criteria includes applying selection criteria (paragraph 0078 through paragraph 0082).

Referring to claim 13. Adam further discloses a method wherein the selection criterion includes information selecting one or more general seller categories to include/exclude from the transaction query (paragraph 0071 and paragraph 0078).

Referring to claim 14. Adam further discloses a method wherein the selection criterion includes information identifying specific sellers to include/exclude from the transaction query (paragraph 0071 and paragraph 0078).

Referring to claim 15. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from the buyer computing device (paragraph 0071 and paragraph 0078).

Referring to claim 16. Adam further discloses a method wherein the information identifying specific sellers to include/exclude is obtained from a seller computing device (paragraph 0071 and paragraph 0078).

Referring to claim 17. Adam further discloses a method wherein the selection criterion includes information identifying one or more general seller categories to

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include/exclude and one or more specific sellers corresponding to the general seller categories to include/exclude (paragraph 0071 and paragraph 0078).

Referring to claim 18. Adam further discloses a method wherein obtaining a selection of at least one seller corresponding to the buyer criteria includes:

- Generating a Web page interface (paragraph 0044); and
- Obtaining a selection of the at least one seller via the Web page interface (paragraph 0044).

Referring to claim 19. Adam further discloses a method wherein processing the negotiation of a transaction includes:

- Obtaining communications from the buyer (abstract); and
- Transmitting the communications to the selected seller (abstract).

Referring to claim 20. Adam further discloses a method wherein processing the negotiation of a transaction includes:

- Obtaining communications from the selected seller (abstract); and
- Transmitting the communications to the buyer (abstract).

Referring to claim 21. Adam further discloses a method wherein processing the negotiation of a transaction includes obtaining a selection of a direction communication method between the buyer and the selected seller; and establishing the direct communication channel between the buyer and the selected seller (paragraph 0025).

Referring to claim 22. Adam further discloses a method wherein the direct communication channel includes an Internet voice communication channel (paragraph 0039).

Referring to claim 23. Adam further discloses a method wherein the direct communication method includes a standard telephonic communication channel (paragraph 0039).

Referring to claim 24. Adam further discloses a method comprising:

- Obtaining a third party transaction request (abstract);
- Identifying one or more third parties corresponding to third party transaction request (abstract);
- Transmitting a set of third parties corresponding to the third party transaction request (abstract);
- Obtaining a selection of at least one third party corresponding to the third party transaction request (abstract);
- Processing the negotiation of a transaction with the selected third party corresponding to the third party transaction request (abstract);
- Obtaining a confirmation of the completion of a transaction with the selected third party corresponding to the third party transaction request (abstract); and
- Generating transaction records associated with the completed transaction (abstract).

Referring to claims 25 and 26. Adam further discloses a method wherein transaction details are forwarded to a third-party.

The Examiner notes, the descriptive material related to the type of third-party is not functionally involved in the recited steps of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of

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patentability, see *In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Referring to claim 27. Adam further discloses a method wherein the transaction request is obtained from the buyer (abstract).

Referring to claim 28. Adam further discloses a method wherein the transaction request is obtained from the selected seller (abstract).

Referring to claim 29. Adam further discloses a method wherein the transaction request is a products transaction request.

The Examiner notes, the descriptive material related to the type of product is not functionally involved in the recited steps of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401, 404 (Fed. Cir. 1983).

Referring to claims 32-57. Claims 32-57 are rejected under the same rationale as set forth above in claims 1-29.

### ***Conclusion***

This is a continued examination under 37 CFR 1.114. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Levine whose telephone number is 703.305.0836. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Fadok can be reached on 571-272-6755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Adam Levine  
Patent Examiner  
April 3, 2006



Robert M. Pond  
Primary Examiner